

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Boston Scientific Corporation, et al.,

NO. C 02-01474 JW

Plaintiff(s),

**ORDER APPOINTING RAINER
SCHULZ AS A TECHNICAL
ADVISOR**

v.

Cordis Corporation,

Defendant(s).

On October 25, 2005, the Court confirmed orally with Roland Schwillinski and Lisa Anne Schneider, counsel for the respective parties that they have no objections to the appointment of Mr. Rainer Schulz as a "Technical Advisor." Therefore, the Court appoints Rainer Schulz as a Technical Advisor under the following terms:

1. Any advice provided to the Court by Mr. Schulz will not be based on any extra-record information.
2. From time to time, the Court may request Mr. Schulz to provide a formal written report on technical advice concerning the case. A copy of the formal written report prepared by Mr. Schulz shall be provided to the parties. However, the Court reserves the right to have informal verbal communication with Mr. Schulz which are not included in any formal written report.
2. Mr. Schulz may attend any court proceedings.
3. Mr. Schulz may review any pleadings, motions or documents submitted to the Court.

1 4. As a technical advisor, Mr. Schulz will make no written findings of fact and will not supply any
2 evidence to the Court. Thus, Mr. Schulz will be outside the purview of “expert witnesses” under Fed. R.
3 Evid. 706. As such, the provisions in Rule 706 for depositions and questioning of expert witnesses will be
4 inapplicable to Mr. Schulz; See Reilly v. United States, 863 F.2d 149, 155-156 (1st Cir. 1988).

5 5. Mr. Schulz will have no contact with any of the parties or their counsel other than for billing
6 purposes.

7 6. The parties are directed to pay the reasonable fees charged by Mr. Schulz for his service as a
8 technical advisor to the Court in this case. The parties shall confer to determine an apportionment for
9 purposes of payment of Mr. Schulz’s fees. All matters pertaining to the fees of Mr. Schulz are referred to
10 the Magistrate Judge Richard Seeborg.

11 7. Mr. Schulz shall file a declaration that he will adhere to the terms of his appointment.

12 Dated: October 25, 2005

13 /s/ James Ware
14 JAMES WARE
15 United States District Judge
16
17
18
19
20
21
22
23
24
25
26
27
28

1 THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:

2 Amanda Marie Kessel akessel@goodwinprocter.com
Christopher T. Holding cholding@goodwinprocter.com
3 David T. Pritikin dpritikin@sidley.com
Hugh A. Abrams habrams@sidley.com
4 J. Anthony Downs jdowns@goodwinprocter.com
Julie Lynn Fieber jfieber@flk.com
5 Lisa Anne Schneider lschneider@sidley.com
Marc A. Cavan mcavan@sidley.com
6 Matthew T. Powers mpowers@sidley.com
Michael Francis Kelleher mkelleher@flk.com
7 Patrick E. Premo ppremo@fenwick.com
Paul F. Ware pware@goodwinprocter.com
8 Roland Schwillinski rschwillinski@goodwinprocter.com
Stephanie Pauline Koh skoh@sidley.com
9 Susan E. Bower sbower@sidley.com
Tracy J. Phillips tphillips@sidley.com

12 Dated: October 25, 2005

Richard W. Wicking, Clerk

By: /s/ JW Chambers

Ronald L. Davis
Courtroom Deputy